

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KATHLEEN ANN COLLIE,	:	CIVIL ACTION NO. 1:16-CV-227
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
WAL-MART STORES EAST, L.P.,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 24th day of May, 2017, upon consideration of the motion (Doc. 46) *in limine* by defendant Wal-Mart Stores East, L.P., (“Wal-Mart”), seeking to exclude from trial evidence pertaining to a prior accident occurring in its shopping cart facility, (*id.* ¶¶ 9-14), asserting that evidence of this prior accident is irrelevant and unduly prejudicial under the Federal Rules of Evidence because plaintiff Kathleen Ann Collie (“Collie”) has not established that the prior accident occurred under substantially similar circumstances to the accident *sub judice*, (Doc. 47 at 2-4); see also FED. R. EVID. 401, 403, and the court noting that it must be apprised of the specific facts surrounding a prior accident before determining its evidentiary relevance or its potential to prejudice a party at trial, see Barker v. Deere & Co., 60 F.3d 158, 162-63 (3d Cir. 1995) (citations omitted); Houdeshell ex rel. Bordas v. Rice, 939 A.2d 981, 984-85 (Pa. Super. 2007) (citations omitted), and that these facts must indicate that the prior accident occurred in “substantially similar” circumstances to those of the accident at issue herein, *id.* (citations omitted), but further noting that the factual record contains no exhibits or testimony describing

the circumstances of the prior accident, and that the parties presented no such evidence to the court for purposes of adjudicating Wal-Mart's motion (Doc. 21) for summary judgment, (see Doc. 36), and the court concluding that the record is inadequate to rule on the instant motion *in limine* at this juncture, it is hereby ORDERED that a hearing concerning the prior accident shall commence immediately following jury selection and prior to opening statements.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania